

MINUTES OF THE CAPITAL PLANNING ADVISORY BOARD

October 2, 1997

The fifth meeting of the Capital Planning Advisory Board (CPAB) of the 1997 calendar year was held on Thursday, October 2, 1997 at 10:30 AM, in Room 111 of the Capitol Annex. Representative Fred Nesler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Fred Nesler, Chairman; Bill Hintze, Vice-Chairman; Representative Lawrence Brandstetter; Susan Clary; Sherron Jackson (representing Gary Cox); Lou Karibo; Glenn Mitchell (representing James Codell); Senator Denny Nunnalley; Judge Anthony Wilhoit.

Guests: Representative Joe Barrows; Representative Paul Marcotte; Darrell Welch, Cabinet for Families and Children; Bart Bolin, Gene Long, and Larry Lyles, Cabinet for Health Services; Mary Presley, Department of Corrections; Nick Schwendeman, Administrative Office of the Courts; Doug Robinson, Executive Director, and Shirley Rodgers, Kentucky Information Resources Management Commission; Joseph Walls, Public Protection and Regulation Cabinet; Londa Wolanin, Kentucky Higher Education Assistance Authority; Mary Allen, University of Kentucky; Bob Bender, Department of Parks; Ron Bingham, Director, EMPOWER Kentucky; Dave Ballard, Department of Information Systems; Mike Helton, Revenue Cabinet; Allen Holt, Governor's Office for Policy and Management; Jack Affeldt and Joe Hood, LRC.

LRC Staff: Pat Ingram, Mary Lynn Collins, and Jonathan Downey.

Chairman Nesler said the first item on the agenda was the approval of the minutes from the August 22 meeting. Mr. Hintze moved that the minutes be approved. Ms. Clary seconded the motion, which passed by voice vote.

Chairman Nesler said the information items which were included in the meeting folders had been mailed to members prior to the meeting. Pat Ingram, Staff

Chairman Nesler said this long-range plan is an ongoing concern of the Board. He had hoped that Secretary McCarty of the Finance and Administration Cabinet would be able to present the plan to the Board at this meeting, but it has not been completed.

Chairman Nesler said the remainder of the agenda would focus on the Board's issue-related recommendations and its consideration of project recommendations. He asked Ms. Ingram to review the issue-related recommendations for the Board.

The first proposed recommendation concerned the Board's intent for projects to be submitted in agency capital plans. This proposed recommendation was "that future instructions for agency capital plans state that all facilities proposed to address capital needs and priorities are to be submitted regardless of the anticipated means of acquisition." Ms. Ingram said this recommendation was developed based on members' concerns at the last meeting that some projects may potentially bypass the capital planning process because they are proposed to be addressed outside the normal state capital construction procedures. Mr. Hintze moved that this proposed recommendation be approved. The motion was seconded by Mr. Karibo and passed by voice vote.

The second proposed recommendation concerned the use of KRS 56.774 for energy management and chiller retrofit projects. The proposed recommendation was "that state agencies and postsecondary education institutions be encouraged to utilize the provisions of KRS 56.774, which allow for the use of energy performance contracts, in order to implement energy management and chiller retrofit projects and that the Governor and General Assembly give serious consideration to addressing needs identified by the Finance and Administration Cabinet in order to effectively implement this statute (e.g., additional staffing, statutory clarification)."

Ms. Ingram said state agencies and postsecondary education institutions need to retrofit or replace cooling equipment in order to address the Federal Clean Air Act Amendments of 1990 which call for a total phaseout of chlorofluorocarbon (CFC) refrigerants by the year 2000. Although there has been limited state funding available to carry out such projects, capital plans for the next two biennia include a large number of projects to address those CFC phaseout requirements as well as some projects for energy conservation and energy management. The 1996 General Assembly enacted HB 264 which established the "Energy Efficiency Program for State

projects have capital project authorization, and the need for adequate staffing in the Department of Facilities Management. Mr. Hintze moved that the proposed recommendation be approved. Mr. Jackson seconded the motion, which passed by voice vote.

The third proposed recommendation concerned long-range court facilities planning. Ms. Ingram said at previous meetings, the Board has discussed the need for better cost estimates for proposed court projects and the need to provide assistance to counties without adequate resources for planning. Various approaches to address the needs were discussed at CPAB meetings in June and July, including establishment of a pool of funds for counties to use for planning purposes (probably with a required match of local funds), or additional staffing at the Administrative Office of the Courts.

The proposed recommendation was "that the Chief Justice recommend and the General Assembly appropriate amounts in the 1998-2000 Judicial Branch budget to provide for more long-range court facilities planning. Specifically recommended is funding for two additional positions (an architect and a court facility planner) in the facilities section of the Administrative Office of the Courts (AOC) and for specialized consulting services. The new positions would be responsible for conducting a comprehensive assessment of current court facilities statewide, establishing standards for projecting future growth, and assisting counties with limited resources in performing feasibility studies and in developing preliminary cost estimates. Funding for consulting services would allow AOC to contract for specialized services, such as structural or mechanical engineering evaluations, as needed." Mr. Hintze moved that this proposed recommendation be approved. Judge White seconded the motion, which passed by voice vote.

The fourth proposed recommendation addressed the need to expedite implementation of authorized capital projects. Ms. Ingram said in testimony at the July 1997 meeting of the Board, representatives of both the Justice Cabinet and Western Kentucky University expressed concerns about the length of time it takes from project authorization to project completion. The Justice Cabinet particularly cited as examples the two new juvenile detention facilities authorized by the 1996 General Assembly. As a result of the long time involved, the Justice Cabinet decided to explore an alternative approach (involving the private sector) for obtaining a replacement for the Central Kentucky Treatment Center to serve as the state's maximum security juvenile

retaining all safeguards necessary to ensure the integrity of the process." Mr. Mitchell moved that the proposed recommendation be approved. Mr. Jackson seconded the motion, which passed by voice vote.

The fifth proposed recommendation addressed the Board's ongoing concern about growth in the state's prison population. Ms. Ingram noted that the Commissioner of the Department of Corrections told the Board at its July 1997 meeting that the Department's projections indicate a prison population growth of approximately 1,000 per year over the next six years. For the 1998-2002 planning period, the Justice Cabinet is proposing construction of two new 200-bed dormitories at Blackburn Correctional Complex; Phases 1 and 2 of a three-phase expansion of the Kentucky Correctional Institution for Women; and design and construction of a new 1,790-bed medium security facility for men. The Cabinet has also indicated that in the next six years it plans to increase the number of Class D felons housed in county jails and to increase the use of enhanced supervision. The proposed recommendation was "that the Executive, Legislative, and Judicial Branches undertake a study of ways to reduce the growth in the prison population, to include identifying alternatives to incarceration that are consistent with public safety."

Representative Brandstetter said he would urge the General Assembly, as alternatives to incarceration are implemented, to ensure that public safety is not compromised. He moved that the proposed recommendation be approved. Judge White seconded the motion, which passed by voice vote.

The next proposed recommendation concerned the area of juvenile justice. Ms. Ingram said the recently-created Department of Juvenile Justice in the Justice Cabinet is responsible for both the state's pre-adjudication and post-adjudication juvenile facilities. To address preadjudication needs for the 1998-2002 planning period, the Justice Cabinet is proposing construction of six new secure juvenile detention facilities (48 beds each) and expansion of the Breathitt County facility, now under construction, from 24 to 48 beds. For the 1998-2002 planning period, only one new postadjudication facility is proposed in the Cabinet's capital plan. Instead of new facilities, the Cabinet is proposing to provide additional beds over the next two biennia through expansion and replacement of existing facilities. In its capital plan, the Department notes that this limited expansion reflects its "priority to decrease reliance on residential programs, by creating community based alternative programs." In addition to providing for preadjudication and postadjudication detention facilities, KRS

construction of additional facilities." Ms. Clary said, for the next planning cycle, she would like a representative of the Department of Juvenile Justice to provide the Board with a more detailed presentation as to their planning process and overall agenda. She said she is very interested in hearing how the Department of Juvenile Justice interacts with the courts and other existing services so that alternatives to juvenile detention are fully explored and implemented. She said the Board had expressed some concerns about the maximum security facility being privatized, and these concerns have not yet been addressed by the Department. Judge White said by utilizing resources for alternatives to juvenile detention and preventive measures, the need for increased adult correctional institutions will also be addressed by keeping juveniles from becoming adult offenders. He said some states are doing more in this area with good results. Ms. Clary agreed that there is a large void in this area. Judge White said there is a very large percentage of repeat offenders among juveniles, and he would like to see more resources expended to address this problem. Ms. Ingram said representatives of the Department of Juvenile Justice are tentatively scheduled to appear at the Board's October 20 meeting.

Ms. Clary moved that the proposed recommendation be approved. Judge White seconded the motion, which passed by voice vote.

The next recommendation concerned the shared use of postsecondary education facilities. Ms. Ingram noted that various institutions in Kentucky's postsecondary education system provide educational services in the same locale. In its 1994-2000 Statewide Capital Improvements Plan, the Capital Planning Advisory Board recommended that the Council on Higher Education (CHE) plan for shared facilities to be used by the various public higher education institutions. This recommendation resulted from the Board's review of the capital plans submitted by Morehead State University (MoSU) and the UK Community College System (UKCCS), both of which proposed construction of new facilities in Prestonsburg. Board members felt that funds could be better spent and resources better utilized if the two institutions would share facilities. Ms. Ingram said the postsecondary education reforms enacted by the May 1997 Special Session of the General Assembly should enhance opportunities for collaborative efforts.

The proposed recommendation was "that the Council on Postsecondary Education (CPE) plan for shared facilities to be used by the various public postsecondary education institutions." Senator Nunnelley moved that the proposed

appropriations, in order to maintain a balance equal to 5% of general fund receipts. There is currently \$200 million in the BRTF. In its 1994-2000 Statewide Capital Improvements Plan, the Board recommended that the Governor and the General Assembly increase funding for the Budget Reserve Trust Fund by 1% each biennium, with the goal of establishing a reserve which is equal to 5% of general fund revenues. The 1996-98 biennial budget suspended the provisions of the statute concerning the BRTF so that it remains at \$200 million rather than being increased to 5% of general fund revenues.

The proposed recommendation was "that the Budget Reserve Trust Fund be funded in accordance with the provisions of KRS 48.705 and that the Governor and General Assembly not suspend these provisions in recommending and enacting future Executive Branch budgets." Representative Brandstetter said he has been very concerned with this issue for some time and feels the Board's recommendations in the past have indicated that other Board members are equally concerned. He said vigilance is needed to ensure the budgetary discipline necessary to maintain the BRTF at the statutory level. By maintaining the BRTF at this level, Representative Brandstetter said the state would realize lower interest rates on its bonded indebtedness, resulting in a substantial savings for the state.

Senator Nunnelley asked if this fund was being used to pay for the intangible tax refunds which are currently being distributed. Mr. Hintze said the fund will remain at its current level and that these tax refunds are being financed through general fund surplus as a necessary government expense. In response to a question from Representative Brandstetter, Allen Holt of the Governor's Office for Policy and Management (GOPM) replied that the state's investments currently earn an interest rate of approximately 5.5%. Mr. Hintze said the BRTF receives a slightly higher interest rate than most state funds because it can be placed in longer-term investments.

Representative Brandstetter moved that the proposed recommendation be approved. The motion was seconded by Senator Nunnelley and passed by voice vote.

The next proposed recommendation addressed technology-based solutions and alternatives to construction. Ms. Ingram said KIRM discussed with the Board, at its last meeting, two technology-based approaches which have the potential to reduce state office space requirements - telecommuting and hoteling. Telecommuting

who would normally work in the building (thus reducing space needs) or a statement that such a plan is not practicable. KIRM is proposing some pilot projects with non-state government entities (e.g., local governments, area development districts) for state workers who are frequently on the road to hotel or have shared space in an existing office.

The proposed recommendation was "that the Capital Planning Advisory Board (CPAB) work with relevant state agencies to explore, evaluate, and implement technology-based solutions and alternatives to the construction and acquisition of new space." Mr. Mitchell moved that the proposed recommendation be approved. Mr. Hintze seconded the motion, which passed by voice vote.

The next proposed recommendation concerned capital planning for information technology. Ms. Ingram said in its July 1997 report to the Board, KIRM included four recommendations relating to planning and budgeting for information technology capital items and systems. At that meeting, Doug Robinson, Executive Director of KIRM, discussed these recommendations in detail. Ms. Ingram said most of the KIRM proposals can be addressed as the 1998-2004 capital planning instructions and process are developed beginning in Summer, 1998. The process of hiring a Chief Information Officer for the state is currently underway, and it is expected that he/she will submit proposals, for consideration by the 1998 General Assembly, that may change the state's technology organization and structure. Since such changes may occur prior to the next planning cycle, it is not necessary for the Board to finalize provisions of the planning instructions or procedures at this time. However, definitions, dollar thresholds, etc. regarding capital information technology are set out in statute and regulation and any changes need to be proposed as quickly as possible, to allow for their consideration, as needed, by the 1998 General Assembly in order to be in place for the next planning process.

The proposed recommendation was "that the Capital Planning Advisory Board work with the Kentucky Information Resources Management Commission in establishing the 1998-2004 capital planning instructions and process to ensure that needs and concerns of both entities are addressed to the extent possible regarding the submission, review, and reporting on information technology items and systems; and that KIRM propose, for consideration by the 1998 General Assembly, any necessary changes in the Kentucky Revised Statutes or Kentucky Administrative Regulations to ensure that items and systems are defined in a manner consistent with

pursuant to KRS 42.027, the Cabinet begin work to develop long-range plans for housing state agencies which are located in the metropolitan areas of Kentucky."

Representative Brandstetter said a long-range plan could be beneficial to the Board as it deliberates future recommendations in the area of housing state agencies. He moved that the proposed recommendation be approved. Mr. Hintze seconded the motion, which passed by voice vote.

Chairman Nesler said the Board would next address the project recommendations. He said he appreciated the response from the Board members in selecting their top 20 projects and the work of staff in consolidating these responses. The proposed recommendation is in two parts: those projects proposed to be financed with state funds and those proposed to be financed with other than state funds. These recommendations were distributed to the Board. Chairman Nesler said the Board would have another meeting on October 20 for its final approval of the statewide plan, so it was not necessary for the Board to take final action on this proposed recommendation at today's meeting.

Chairman Nesler said the Board would first look at the state-funded projects. He said this list emphasized maintenance of existing facilities as the Board's top priority. It also recognized the importance of continued funding for existing programs throughout the state which provide assistance to non-state entities through grants or loans for school facilities, infrastructure, or economic development projects. Finally, the group of 18 projects included in this recommendation was a relatively short list of high priority projects. Chairman Nesler emphasized that there are a number of other very important and valid projects being proposed in addition to these. He asked for comment from the Board.

Senator Nunnelley said this is a very good list of projects and commended staff for their work in developing the list based on the project lists submitted by members. He said he wished to propose some additional language to be included in the final report. This language would state that projects which have previously received state budget appropriations for pre-construction, planning, design, and engineering and which have dedicated funds toward construction from agency funds and private donations, such as the Aging-Allied Health Building at the University of Kentucky (UK), shall be considered projects already initiated and therefore have a high priority. He said he did not wish to change the list as it has been distributed to the Board, but

In response to a question from Chairman Nesler, Senator Nunnelley said the remaining cost of the project to be funded from state funds would be \$26 million. He said the General Assembly led UK to believe the project would be funded, and they have already spent \$500,000 for design and undertaken extensive fund-raising efforts. Senator Nunnelley said this and other similar projects should be acknowledged through language in the Board's report.

Representative Brandstetter agreed with Senator Nunnelley and said he would like the Board to go even further. He said in the May 1997 Special Session, the General Assembly made a new commitment to postsecondary education with emphasis on research at both UK and the University of Louisville (UL). Representative Brandstetter said, taking into consideration the amount of research funds that are spent nationally on health-related research as well as the amount of funds which have already been raised, this project should be included by the Board in its list of recommended projects. He said the project could then be removed from Senator Nunnelley's suggested language.

Mr. Jackson asked if the intent was to acknowledge the restricted funding portion of the Allied Health Building project as capable of being completed or to recommend state funding as well. Senator Nunnelley said his intent was to bring attention to the project to ensure that the Governor and his budget staff understand that the Board, in not specifically recommending this project or other projects which had received design funds, did not imply that these projects are not worthy of consideration.

Chairman Nesler asked if this project, since it would employ a combination of state and restricted funds, should be included in this list of state-funded projects or if it should be included with the other-than state funds projects. Representative Brandstetter said he felt the project should be added to the list of state-funded projects that the Board may recommend in its final report. He said this will make this list consistent with what was recommended by the Board in the last planning process so that design funds are not wasted or carried forward to the next planning process.

Judge White said the Board had debated this issue in previous meetings, and he thought the Board had decided it would not automatically recommend a project because funds had been authorized in a previous budget for that project. Mr. Hintze said he thought Senator Nunnelley's proposal was intended to cover several facilities

noted that there is not an adult correctional institution on the list, and there are other areas of importance that do not appear on this list.

Chairman Nesler said the maintenance recommendation is, as the Board had agreed, the top priority. The specific projects in the list before the Board reflect the Board's top priorities, in alphabetical order. Chairman Nesler said the Board does not wish to give the impression that this list contains the only projects worthy of consideration.

Mr. Hintze said that although there was not a correctional facility on the list, it is certain that there will be at least one major prison constructed. He said the absence of a correctional facility on the Board's list concerned him. He said he does not advocate expansion of the list, but wanted to reiterate that this is one of the areas the Board should take proper recognition of and inform the Legislature and the Governor that this is an important area. Senator Nunnelley suggested adding a paragraph to the report acknowledging the need for new prison beds but that the Board was not sufficiently informed to be able to recommend a specific number of juvenile or adult facilities. Mr. Hintze said he wanted to emphasize that the state has a responsibility to provide housing for the growing prison population.

Representative Brandstetter asked staff to total the cost of the projects on the list to see how this total relates to the amounts funded in the past. He said if the total recommended for funding in this list is below the amounts funded in the past, there may be room for another project to be added. Chairman Nesler said although he understands that each member has projects that he/she considers high priorities, there must be a stopping point. He understands the need for new corrections facilities and the need to address the juvenile situation, but there would be no fair way to add only certain projects to this list.

Ms. Ingram said the nature of the process may have contributed to keeping correctional facilities off the list. There were three separate correctional facilities projects on the list of 55 projects from which the Board members picked their top 20 projects, and their votes were split among these three projects. Mr. Mitchell noted that, in contrast, the juvenile facilities on the list were simply numbered 1, 2, and 3; members who wished to include a juvenile detention facility picked number 1, thus giving it a high ranking.

if it would simply acknowledge that it is a high priority project that should be considered. Mr. Hintze said this language would be an endorsement and recognition that it is a priority of this Board that projects which had received some level of attention in the appropriations process should not be disregarded due to their absence on this list of various other capital construction and equipment projects.

Mr. Mitchell said staff may be able to develop a category of projects that have funding that leverages other funds, such as restricted or private funds. Chairman Nesler said this could be done. In response to a question from Mr. Jackson, Mr. Hintze said projects like the UK Aging-Allied Health Building could fit in this category.

There being no further business before the Board, the meeting was adjourned at 12:00.